

#37



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	ATTY'S DKT: FRIDKIN1
M. FRIDKIN et al.	)	
	)	Art Unit: 1652
	)	
Appln. No.: 09/117,380	)	
	)	Washington, D.C.
Filed: January 27, 1999	)	
	)	April 13, 2004
For: ANTI-INFLAMMATORY	)	
PEPTIDES ...	)	

**PETITION TO VACATE HOLDING OF ABANDONMENT<sup>1</sup>**

U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window, Mail Stop  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, Virginia 22202

Sir:

Applicant is in receipt of the Notice of Abandonment, mailed March 24, 2004, which **erroneously** states that the application is abandoned because of applicant's failure to file a response within the time period established by the Office Action mailed July 29, 2003.

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

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<sup>1</sup> If a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

April 13, 2004

THE FACTS

Applicant timely and properly responded within the time period established by the Office Action dated by timely filing a Response on October 29, 2003.

As evidence that such Response was timely and properly filed on October 29, 2003, attached hereto is a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on October 29, 2003.

As it appears that the Response filed on October 29, 2003, has been lost by and in the PTO, attached hereto is a duplicate signed copy of the Response (entitled "Amendment") dated October 29, 2003, and related papers. **However, as the original response was timely filed (no extensions), no further fees are required at this time.**

REMARKS

In view of the above evidence, it is clear that a Reply was timely and properly filed within the time period established by the Office Action mailed on July 29, 2003, and that the Notice of Abandonment has been issued in error. As MPEP Section 503 states:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt of the PTO of all

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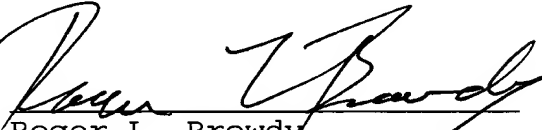
April 13, 2004

items listed there on the date stamped thereon by  
the PTO.

It accordingly requested that the Notice of  
Abandonment be vacated and the present application be  
reinstated.

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By

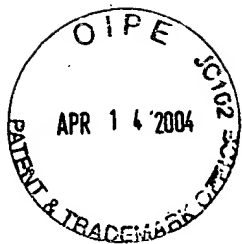
  
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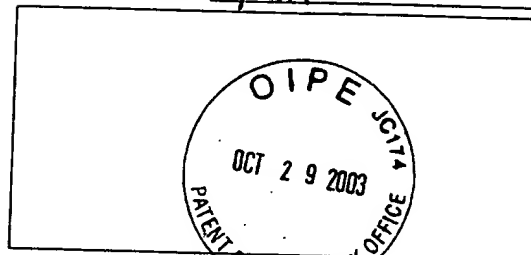


APPLICATION/PATENT NO: 09/117,380  
DOCKET NO: PRIDKIN=1

CONF. NO.: 3826  
CLIENT CODE: YEDA

THE PATENT AND TRADEMARK OFFICE STAMP  
HEREON ACKNOWLEDGES RECEIPT OF THE  
FOLLOWING PAPERS:

- ☐ FEES \$ \_\_\_\_\_
- ☐ PTO FORM 2038 ☐ (CH. # \_\_\_\_\_)
- ☐ EXTENSION OF TIME ( \_\_\_\_\_ MONTHS)
- ☐ TRANSMITTAL LETTER
- ☐ MISSING PARTS RESPONSE WITH DECL
- ☒ AMENDMENT RESPONSE (circle one)
  - ☐ PRELIMINARY ☐ SUPPLEMENTAL
- ☐ APPLICATION DATA SHEET
- ☐ RESTRICTION/ELECTION REPLY
- ☐ SEQUENCE LISTING ☐ WITH DISK
- ☐ RCE / CPA TRANSMITTAL (circle one)
- ☐ NOTICE OF APPEAL
- ☐ APPEAL BRIEF (TRIPPLICATE)
- ☐ REPLY BRIEF (TRIPPLICATE)
- ☐ OTHER \_\_\_\_\_



- ☐ ASSIGNMENT
- ☐ INFORMATION DISCLOSURE STATEMENT
- ☐ FORM SB08A & \_\_\_\_\_ PATENTS/PUBS
- ☐ PRIORITY DOCUMENT(S) NO. \_\_\_\_\_
- ☐ DECLARATION UNDER § \_\_\_\_\_
- ☐ LETTER TO DRAFTSMAN
- ☐ \_\_\_\_\_ SHEETS OF DRAWINGS
- ☐ ISSUE FEE TRANSMITTAL FORM
- ☐ MAINTENANCE FEE LETTER